

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION**

**IN RE: BLACKBAUD, INC.,  
CUSTOMER DATA SECURITY  
BREACH LITIGATION**

**Case No. 3:20-mn-02972-JMC**

**MDL No. 2972**

**DEFENSE CO-LEAD COUNSEL  
PROPOSAL**

Defendant Blackbaud, Inc. (“Blackbaud”) hereby submits this Defense Co-Lead Counsel Proposal pursuant to paragraph 4 of Case Management Order No. 2 [D.E. # 14] to provide the Court with a proposal of the team of lawyers who will serve as Lead Counsel for Defendants.<sup>1</sup> In support thereof, Blackbaud hereby states as follows:

1. Defendant Blackbaud is being represented in this matter by the law firms of Troutman Pepper Hamilton Sanders LLP (“Troutman”), Burr Foreman McNair (“BFM”) and Duffy & Young LLC (“Duffy”). Troutman has more than 1,100 attorneys across 23 offices throughout the United States. Troutman also is one of 64 law firms that have earned the Mansfield Certification from Diversity Lab by, among other things, having 30 percent of the leadership roles occupied by woman, attorneys of color and LGBTQ+ attorneys and committing to the hiring of diverse attorneys and their involvement in marketing and new engagements. Consistent with its commitment to diversity, Troutman has formed a diverse and experienced legal team for this matter.

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<sup>1</sup> At the present time, Blackbaud is the only defendant in this matter. However, motions to vacate Conditional Transfer Order 1 (CTO-1), were filed by certain defendants in the matters captioned as, *Cohen v. Blackbaud, Inc.*, 2:20-cv-01388 (W.D. Wash.) and *Peterson v. Allina Health Systems*, No. 27-cv-20-13221 (Dist. of Minn.). Depending on the JPML’s ruling on these motions, three additional defendants could be added to this case.

2. BFM is a law firm with over 360 attorneys and 19 offices located throughout the Southeastern United States, including offices in Columbia, Greenville and Hilton Head, South Carolina. Duffy is a law firm located in Charleston, South Carolina, which has served the role of local counsel in various multidistrict litigation matters venued in the District of South Carolina.

3. The credentials for the team of class action litigators, data privacy and security practitioners, government regulatory and compliance attorneys and members of the South Carolina bar that Blackbaud proposes to defend it in this matter are highlighted below.

4. Ronald I. Raether, Jr. is a partner in Troutman's Orange County, California office and a member of the firm's Consumer Financial Services Practice Group. Mr. Raether also serves as the Chair of Troutman's Cybersecurity, Information Governance and Privacy Team. Mr. Raether has assisted companies in navigating federal and state privacy laws for over twenty-five years. His understanding of technology led him to be involved in legal issues that cross normal law firm boundaries, including experience with data security, data privacy, patent, antitrust, licensing and contracts. His involvement in seminal data compliance and data use cases has helped define current standards in several areas of the law. He assisted one of the first companies required to provide notice of a data breach and has since successfully defended companies in more than 200 class actions, including:

- Defending a publicly traded subscription platform in one of the nation's first on-line data breach class actions asserting claims for violation of the Fair Credit Reporting Act and California Consumer Credit Reporting Agencies Act.
- Defending a cosmetic manufacturer in a class action asserting claims for violations of various state consumer protection laws, tort violations and breach of contract arising out of an alleged data incident with a potential class exceeding 100,000 individuals.
- Defending a payment processor in two consolidated putative class action lawsuits asserting claims for negligence, breach of contract, unjust enrichment and violations of state Unfair Competition Law and Data Breach Laws in California and New Jersey.

- Defending a publicly traded subscription platform in a nationwide class action that included every adult in the United States alleging violations of the Fair Credit Reporting Act and achieving a comprehensive class settlement under Rule 23(b)(2).
- Defending a publicly traded subscription platform in thirteen separate nationwide or state centric putative class actions asserting claims for violations of the Driver's Privacy Protection Act (DPPA).
- Defending a Software-as-a-Service solution in one the first putative class actions asserting violation of the California Consumer Privacy Act and various other privacy-based claims involving the collection and use of consumers' personal information at the point of sale for 15 major United States retailers.

Mr. Raether has been recognized in Best Lawyers in America in Commercial Litigation (2013-2020), Lexology Legal Influencer Q2 2020, for Telecommunications, Media and Technology, and Ohio Super Lawyers (2010-13 and 15). Mr. Raether regularly speaks nationally and publishes frequently on cutting-edge compliance developments, including before information security professionals at RSA, ISSA, ISACA, ISMG, ASIS, NetDiligence, IAPP and other related organizations. A copy of Mr. Raether's biography is attached as Exhibit A.

5. Ashley L. Taylor, Jr. is a partner in Troutman's Richmond, Virginia office. Mr. Taylor focuses his practice on consumer financial services matters and government regulatory and enforcement matters. Mr. Taylor was involved in one of the first data breach class actions in the United States representing a data aggregator with regard to a high profile security breach. Mr. Taylor also represented a publicly traded retailer in one of the largest data breach incidents in the United States. Mr. Taylor has been recognized by *Best Lawyers in America* (2013-2021) and *Chambers USA* (2015-2020) for his work on commercial litigation and government regulation. He also was recognized by *Savoy Magazine's* list of "Most Influential Black Lawyers" (2018) and the *National Law Journal's* list of "50 Most Influential Minority Lawyers in America" (2008). Mr. Taylor also founded and currently co-chairs, together with the Oregon Attorney General, the American Bar Association committee on state Attorneys General matters. He previously served

as a Commissioner on the United States Commission on Civil Rights, appointed by President Bush from 2004-2010. A copy of Mr. Taylor's biography is attached as Exhibit B.

6. David N. Anthony is a partner in Troutman's Richmond, Virginia office and a member of the Firm's Consumer Financial Services Practice Group. He defends highly regulated consumer financial companies in class actions and complex commercial disputes across the country. Mr. Anthony has served as lead defense counsel in more than 100 class actions and 1,500+ individual lawsuits involving claims made by consumers. He regularly represents auto lenders, background screening companies, banks, credit furnishers, credit repair companies, credit reporting agencies, data companies, debt buyers and collectors, mortgage lenders and servicers, online lenders, payment processors and student lenders in federal and state consumer protection and privacy litigation, regulatory and compliance matters. Mr. Anthony recently represented a Tribal online lender and debt buyer in MDL and related proceedings. Mr. Anthony has been recognized by *Benchmark Litigation* (2008-21), *Best Lawyers in America* (2019-21), and *Chambers USA* (2011-2020) for his work in consumer, commercial and business litigation. A copy of Mr. Anthony's biography is attached as Exhibit C.

7. Tambry L. Bradford is a partner in Troutman's Los Angeles, California office and a member of the firm's Business Litigation Practice Group. Ms. Bradford's practice encompasses a wide range of complex commercial litigation disputes involving claims of fraud, unfair competition, due process violations, contract disputes, products liability and class actions. Some of Ms. Bradford's representative engagements include:

- Serving as national defense counsel for a medical device manufacturer in product liability action involving a surgical device used to treat obesity.
- Defending a food product manufacturer in two class actions involving claims of false advertising under California's Consumers Legal Remedies Act; cases dismissed with prejudice on motion to dismiss due to lack of federal subject matter jurisdiction.

- Defending multiple insurance companies in a nationwide class action involving claims of negligence and violation of the California Confidentiality of Medical Information Act.
- Defending a large hospital and health plan in an action challenging the constitutionality of California's peer review system.

Ms. Bradford has been selected for inclusion in the Southern California Rising Stars list and was named to the Los Angeles Business Journal's "Most Influential Minority Lawyers" list for 2016.

A copy of Ms. Bradford's biography is attached as Exhibit D.

8. Angelo A. Stio III is a partner in Troutman's Princeton, New Jersey office. Mr. Stio's practice focuses on class actions and data privacy and security matters. Some of Mr. Stio's representative privacy engagements include:

- Serving as lead counsel for thirteen insurance companies in a nationwide class action alleging negligence and violations of California's Confidential Medical Information Act.
- Defending a publicly traded health care provider in a class action asserting claims for negligence and violations of state data breach notice statutes.
- Defending an energy company against claims arising from a breach of security of an electronic stock trading platform
- Defending a national bank against claims arising from inadequate security measures associated with medallion signature guarantee programs.
- Defending a state-chartered bank against claims challenging security measures for confirming identity of account holder.
- Representing a university on a security incident involving unauthorized access to student financial aid and medical records.
- Defending a mortgage loan servicer against claims involving the alleged misappropriation of customer data.

Mr. Stio also is an adjunct professor at Rider University where he teaches a course on Cyber Ethics.

He has been included in New Jersey's Super Lawyers list (2010-17) and recognized by Benchmark litigation (2019-20). A copy of Mr. Stio's biography is attached as Exhibit E.

9. Amy Pritchard Williams is a partner in Troutman's Charlotte, North Carolina office. Ms. Williams focuses her practice on consumer financial services, government enforcement and bankruptcy. She has more than 25 years of experience representing an array of lenders and other companies in complex commercial litigation, False Claims Act and qui tam cases, consumer class actions and related matters. Some of Ms. Williams' representative matters include:

- Defending a national bank in multiple class actions relating to CARES Act mortgage loan forbearances.
- Defending a large mortgage servicer in class actions asserting state UDAP and common law claims arising out of allegedly improper default servicing practices.
- Serving as national coordinating class counsel for a large mortgage loan servicer in connection with multiple class actions alleging improper document signing and foreclosure practices.
- Representing national banks and other companies in state and federal False Claims Act investigations and qui tam actions.

A copy of Ms. Williams biography is attached as Exhibit F.

10. Cindy Hanson is a partner in Troutman's Atlanta, Georgia office and a member of the firm's Consumer Financial Services Practice Group. Ms. Hanson focuses her practice on class action defense. She has significant experience representing companies in class actions asserting claims for violations of the Fair Credit Reporting Act, consumer protection statutes and state common laws. Some of Ms. Hanson's representative engagements include:

- Representing a national credit reporting agency in a class action and obtained a decision by the Fifth Circuit to reverse class certification involving approximately 10 million consumers.
- Representing a national credit reporting agency in a putative class action involving alleged violations of the FCRA with respect to the issuance of credit reports for insurance purposes.

- Representing a national credit reporting agency in claims against a mortgage broker which alleged that a subsidiary of the client misappropriated trade secrets belonging to it and other mortgage brokers.
- Representing a national credit reporting agency where plaintiffs sought certification of a nationwide class consisting of consumers holding a major credit card, alleging that the client and other credit reporting agencies violated the FCRA by allegedly substituting consumers' "high balance" for their "credit limits" when reporting consumers' accounts.
- Representing a criminal background checks company in a putative class action alleging that the client violated multiple sections of the FCRA.

A copy of Ms. Hanson's biography is attached as Exhibit G.

11. Josh Davey is a partner in Troutman's Charlotte, North Carolina office and a member of the firm's Business Litigation Practice Group. Mr. Davey is a former clerk for The Honorable Dennis W. Shedd of United States Court of Appeals for the Fourth Circuit. Mr. Davey currently represents banks, mortgage companies, auto and credit card lenders and other financial industry clients in sophisticated business disputes and consumer class actions. Mr. Davey's representative matters include:

- Defending a national bank in multiple class actions relating to CARES Act mortgage loan forbearances.
- Defending a national bank in multidistrict class action litigation relating to forced-placed automobile insurance.
- Defending a national bank in class action relating to automobile guaranteed asset protection refunds.
- Defending a national bank in class action alleging improper overdraft fee disclosures and practices in violation of Electronic Funds Transfer Act.
- Defending a national telecommunications provider in putative class action relating to early termination fees.

He has been recognized for inclusion in the North Carolina Super Lawyers list (2013-2017). A copy of Mr. Davey's biography is attached as Exhibit H.

12. Timothy St. George is a partner in Troutman's Richmond, Virginia office and a member of the Firm's Consumer Financial Services Practice Group. Mr. St. George defends companies in highly regulated industries in class actions and complex commercial disputes. Some of Mr. St. George's representative engagements include:

- Counsel for *Fortune* 100, federally-chartered bank in MDL proceeding aggregating more than 70 class actions arising out of prominent data breach.
- Lead counsel for national trust of pooled student loans in series of putative class actions nationwide challenging debt collection litigation.
- Lead counsel for multiple data brokers and wholesalers of public record information in putative class actions in multiple states attempting to apply the FCRA to their business models.
- Lead counsel for nation's largest provider of motor vehicle records in putative nationwide FCRA class actions challenging record accuracy.

Mr. St. George has been listed on the 40 & Under Hot List, Benchmark Litigation (2018, 2019, 2020), Law 360 Rising Star (National) (2018), Virginal Super Lawyers (2013-2020). A copy of Mr. St. George's biography is attached as Exhibit I.

13. Celeste T. Jones is a partner in Burr Forman's Columbia, South Carolina office. Ms. Jones has practiced law for more than thirty years. Her practice focuses on business litigation, healthcare matters, commercial disputes, and defending companies in class actions. Ms. Jones has been ranked among the country's top lawyers by *Chambers USA*, *Best Lawyers in America* and *South Carolina Super Lawyers* in the areas of Commercial Litigation, Criminal Defense: White Collar, Health Care Law and Litigation – Antitrust. A copy of Ms. Jones' biography is attached as Exhibit J.

14. Rutledge Young III is a partner with the law firm of Duffy & Young LLC in Charleston, South Carolina. Mr. Young focuses his practice on complex commercial disputes. He also has served as counsel in a number of multidistrict litigation matters and in data breach actions, including: *In Re: Aqueous Film-Forming Foams Products Liability Litigation*, *In Re: South*



*Carolina Opioid Litigation*, and *Kersey v. Georgetown Hospital*. A copy of Mr. Young's biography is attached as Exhibit K.

Blackbaud is confident that the team of attorneys representing it from Troutman, BFM and Duffy have the experience, area expertise and skill set to efficiently manage these matters.

Respectfully,

Dated: February 5, 2021

s/ Celeste Jones

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